

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JERAMEY R. BROWN,

Plaintiff,

v.

JOE GULASH, *et al.*,

Defendants.

Case No. 07-cv-370-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on the defendants' motion to consolidate this case with *Brown v. Hertz*, Case No. 07-cv-117-PMF, which involves much of the same conduct, although in support of a different legal theory (Doc. 52). *Brown v. Hertz* was originally assigned to District Judge G. Patrick Murphy, but upon the consent of all parties in that case, was referred for final disposition to Magistrate Judge Philip M. Frazier pursuant to Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c). The Court's practice when consolidating case is to assign the matters to the judge hearing the earliest filed case, here *Brown v. Hertz*. However, consolidation in front of Judge Frazier cannot occur at this time because the parties to this case have not consented to disposition by a magistrate judge. In the absence of consent from all parties in this case, the cases cannot be consolidated. Accordingly, the Court **DENIES** the motion to consolidate (Doc. 52).

The Court notes that, pursuant to its July 16, 2009, order (Doc. 10), this case would automatically be transferred for final disposition to Judge Frazier, who is already designated to decide pretrial matters in this case pursuant to Local Rule 72.1(a)(2), *should all parties file the appropriate consents*. Judge Frazier could then decide whether to consolidate this case with *Brown v. Hertz* in light of their substantially different procedural postures and other relevant factors.

IT IS SO ORDERED.

DATED: September 22, 2009

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE